

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

HOWARD KEVIN KNUSSMAN, *et al.*,

Plaintiffs,

v.

STATE OF MARYLAND, *et al.*,

Defendants.

CIVIL ACTION

NO. B-95-1255

**MOTION TO AMEND ORDER FOR MEDIATION
AND FOR ENLARGEMENT OF TIME**

The defendants, State of Maryland, Col. David B. Mitchell, Lt. Col. David W. Czorapinski, F/Sgt. Ronnie P. Creel (Ret.) and Jill Mullineaux, by their undersigned counsel, move to amend this court's Oral Order of October 21, 2003 and for reasons state:

1. In accordance with 28 U.S.C. §§ 651(b) and 652, this Court has adopted Local Rule 607.1, authorizing the use of all alternative dispute resolution ("ADR") processes in civil actions. The Rule further provides that the Magistrate Judges of the District Court for the District of Maryland shall constitute the panel of neutrals unless the parties agree to the use of a different neutral.

2. Local Rule 607.2 requires the parties in civil cases to consider using an ADR process, and Rule 607.4 ensures that the process will be confidential, stating that "no disclosure shall be made to anyone, including the judicial officer to whom the case is assigned, of any dispute resolution communication that in any respect reveals the dispute resolution positions of the parties."

3. By Order dated October 21, 2003, this Court directed the parties to participate in mediation conducted by the Court and to submit to the Court *ex parte* memoranda setting forth argument on their respective settlement positions on or about December 8, 2003.

4. By letter dated November 20, 2003, the defendants advised the Court that the parties through counsel had discussed their respective positions since October 21, 2003, and that the Maryland State Police believed that their positions differed so substantially that any attempt at mediation would be futile. *See* Correspondence re: Mediation, docket entry #220.

5. The Maryland State Police continue to believe that mediation will unnecessarily waste judicial resources and result in the needless expenditure of attorney time. The Maryland State Police therefore do not consent to ADR and respectfully request the Court to amend its Order directing the parties to participate in mediation and to submit *ex parte* memoranda. The defendants propose that the matter is ripe for adjudication.

WHEREFORE, the defendants respectfully request that the Court:

1. Amend its Order of October 21, 2003 to eliminate the mediation process and to direct the parties *not* to make *ex parte* submissions to the Court; and

2. In the alternative, if the Court does not amend its Order as requested above, grant an enlargement of time for a reasonable period after the ruling on this motion for the parties to submit memoranda as further directed by the Court.

Respectfully submitted,

J. JOSEPH CURRAN, JR.
Attorney General for Maryland

-and-

/s/

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(signed by William Brockman with
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of December 2003, a copy of the foregoing Motion to Amend Order For Mediation and For Enlargement of Time was electronically served on the following counsel of record for Plaintiff: Robin R. Cockey, Esq., Cockey, Brennan & Maloney, P.C., 313 Lemmon Hill Lane, Salisbury, Maryland 21801; Deborah A. Jeon, Esquire, ACLU of Maryland, 100 N. Liberty Street, Centreville, Maryland 21617 and Andrew D. Freeman, Esquire, Brown, Goldstein & Levy, LLP, 120 E. Baltimore Street, Baltimore, Maryland 21201.

/s/

WILLIAM F. BROCKMAN